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10 Attorneys for Defendant
11 HOME DEPOT U.S.A., INC.

12 UNITED STATES DISTRICT COURT

13 DISTRICT OF NEVADA

14 PAUL PARTON, individually,

15 Case No. 2:20-cv-01404 JCM-EJY

16 Plaintiff,

17 v.

18 HOME DEPOT U.S.A., INC., a foreign
corporation; DOES 1 through 10; and ROE
19 ENTITIES 11 through 20, inclusive jointly
and severally,

20 Defendants.

**STIPULATION AND [PROPOSED]
ORDER FOR INDEPENDENT
MEDICAL EXAMINATION OF
PLAINTIFF PAUL PARTON**

21

22 Comes now PLAINTIFF PAUL PARTON and Defendant HOME DEPOT U.S.A., INC.

23 by and through their counsel and stipulates, pursuant to Federal Rules of Civil Procedure 35, that

24 Plaintiff PAUL PARTON appear on **February 4, 2021 at 3:00 p.m.** at 861 Coronado Center

25 Drive, Suite 200, Henderson, NV 89052 for an independent medical examination to be

26 conducted by James S. Forage, M.D., Telephone number 702-896-0940. Dr. Forage is board

27 certified in Neurological Surgery and his curriculum vitae is attached as **Exhibit A.**

28 1. This will be the only orthopedic IME allowed in this matter.

2. The examiner will not require Plaintiff to sign any paperwork. However, should
the examiner require Plaintiff to complete paperwork, then same should be provided to
Plaintiff's counsel at least five days in advance of the examination.

1 3. The examiner will retain all handwritten notes, e-mails (sent and received), and
 2 all documents generated or received, including draft reports, related to the examination.

3 4. No later than thirty days following the examination, the examiners will produce a
 4 copy of their entire file related to their respective exam, including any test materials/raw data.

5 5. The examiners will forward a copy of the examination report to Plaintiff's
 6 counsel at the same time that the report is sent to Defendant's counsel, without delay, pursuant
 7 to FRCP 35.

8 6. The examiners will accurately report the findings and test results.

9 7. To ensure accuracy of the report, Plaintiff may audio record the examination.

10 8. The IME examiner can ask about the plaintiff's general medical history, what
 11 happened in the subject incident (no liability type questions), what body parts he injured in the
 12 subject incident, whether he had prior injury to those specific body parts and treatment received
 13 for injuries sustained.

14 9. Plaintiff will have a third party nurse examiner present. She will not ask
 15 questions and will only observe the examination.

16 10. Neither defense counsel nor any its representatives, will attend the examination.

17 11. The examination will not last longer than two hours unless extraordinary
 18 circumstances are presented to Plaintiff's counsel in writing at least five days prior to the
 19 examination setting forth the justification for additional time.

20 12. Plaintiff will not be required to wait in the IME waiting room for longer than
 21 thirty minutes before commencement of each examination.

22 13. Liability questions may not be asked by the examiner or any agent or
 23 representative of the examiner. Further, the IME examiners will not attempt to use this exam to
 24 take a statement of Plaintiff.

25 14. No x-rays or radiographs may be obtained during the examinations, including,
 26 but not limited to, EMG, EEG, MRI, CT scans, etc. If any such studies are necessary for the

1 IME, please detail in writing why such studies are necessary and the protocol for conducting
2 such radiographic studies.

3 15. Plaintiff will not complete any psychological and/or psychometric testing in
4 neither written nor oral form.

5 16. Defense counsel shall notify the IME examiner of these conditions and have
6 him/her agree to each prior to commencement of the exam.

7 17. Defense counsel agrees that should the examiners violate any of the above-
8 mentioned conditions, Plaintiff's counsel will be able to comment on the same at trial as well as
9 the fact that these conditions were explained to the medical experts prior to the IME.

10 18. Defendant shall bear the costs of such examination. Dr. Forage charges a
11 \$1,500 fee for no show or cancellation unless 7 days' notice of such cancellation is provided in
12 advance of said examination. Any such late cancellation costs shall be paid by Plaintiff.

13 DATED: January 29, 2021

DAVID BOEHRER LAW FIRM

14

By /s/ Travis J. Rich

15

David D. Boehrer, Esq.

16

Travis J. Rich, Esq.

17

DAVID BOEHRER LAW FIRM

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375 N. Stephanie Street, Suite 711

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Henderson, NV 89014

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Attorneys for Plaintiff

21

PAUL PARTON

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DATED: January 29, 2021

BURNHAM BROWN

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By /s/Lynn V. Rivera

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LYNN V. RIVERA, ESQ.

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NEVADA BAR NO. 6797

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200 S. Virginia Street, 8th

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Floor Reno, Nevada 89501

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PROPOSED ORDER

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IT IS SO ORDERED.

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DATED: February 1, 20201


Clayton J. Zouchal
UNITED STATES MAGISTRATE JUDGE

1 Submitted by:
2 BURNHAM BROWN
/s/ Lynn V. Rivera
3 Lynn V. Rivera
4 Nevada State Bar No. 6797
5 200 S. Virginia Street, 8th Floor
Reno, Nevada 89501
Attorneys for Defendant
HOME DEPOT U.S.A., INC.

AFFIRMATION

8 Pursuant to NRS 239B.030, the undersigned does hereby affirm that the preceding
9 pleading filed in District Court Case No. 2:20-cv-01404 JCM-EJY does not contain the social
10 security number of any person.

DATED: January 29, 2021

BURNHAM BROWN

By /s/ Lynn V. Rivera
LYNN V. RIVERA, ESQ.
NEVADA BAR NO. 6797
200 S. Virginia Street, 8th
Floor Reno, Nevada 89501
Attorneys for Defendant
HOME DEPOT U.S.A., INC. (Erroneously
sued herein as THE HOME DEPOT, INC., a
foreign profit corporation)